

**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Docket No: Q94121

Masao SUDOH, et al.

Appln. No.: 10/574,477

Group Art Unit: 1621

Confirmation No.: 2361

Examiner: Katakam, Sudhakar

Filed: January 9, 2007

For: DRUG CONTAINING (2R)-2-PROPYLOCTANOIC ACID AS THE ACTIVE  
INGREDIENT

**RESPONSE TO RESTRICTION AND ELECTION OF SPECIES REQUIREMENTS**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This responds to the Restriction and Election of Species Requirement, dated May 23,  
2007.

**Restriction Requirement**

The Examiner requires that Applicant select one of the following groups for prosecution  
on the merits:

Group I        -        Claims 1-17, 20-28 and 33-34, drawn to a medicament comprising  
(2R)-2-propyloctanoic acid and a basic metal ion.

Group II       -        Claims 18, drawn to a method of making a medicament comprising  
(2R)-2-propyloctanoic acid.

Group III - Claims 19, drawn to a method of making a medicament using a basic metal ion, which comprises (2R)-2-propyloctanoic acid.

Group IV - Claims 29-30, drawn to a container made of plastics filled with (2R)-2-propyloctanoic acid, disodium hydrogen phosphate dodecahydrate and sodium hydroxide.

Group V - Claims 31, drawn to a method of preventing and/or treating neurodegenerative diseases, nerve disorder or diseases in need of nerve regeneration, which comprises administering an effective amount of medicament comprising (2R)-2-propyloctanoic acid or a salt thereof and a basic metal ion.

In response to the Restriction Requirement, Applicant elects Group I, claims 1-17, 20-28, 33 and 34 for examination. This election is made without traverse.

**Species Election**

The Examiner states that upon election of one of groups I-V, Applicants are required to elect a single disclosed species for examination purposes.

In response, Applicant elects the formulation in Example 15 for examination on the merits. If necessary, Applicant elects formulation 90 of Example 15.

Claims 1,2, 4-11, 13-17, 23-28, 33 and 34 read on the elected species.

The Examiner believes claim(s) 1-6 and 11-30 to be generic. Applicant submits that claims 9 and 10 are also generic.

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**Rejoinder**

Upon indication of allowable subject matter, Applicant requests rejoinder of any claims directed to the process of making and/or using the product.

Applicant submits that if any of the elected claims is found to be allowable, claims dependent therefrom should similarly be considered allowable in the same application.

Applicant reserves the right to file a Divisional Application directed to non-elected claims 18, 19, and 29-31.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

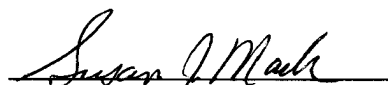
Respectfully submitted,

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON DC SUGHRUE/265550

**65565**

CUSTOMER NUMBER

  
Susan J. Mack  
Registration No. 30,951

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